

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

In the matter of:

PUERTO RICO ELECTRIC POWER
AUTHORITY,
Aguirre Steam Plant
Salinas, Puerto Rico

NOTICE OF VIOLATION:

Index No. CAA-02-2002-1309

I. STATUTORY AUTHORITY

THIS NOTICE OF VIOLATION ("NOV") is issued to the Puerto Rico Electric Power Authority, ("Respondent") for violations at its Aguirre Steam Plant located at PR Road 3, km 153, in Salinas, Puerto Rico (the "facility"), pursuant to Section 113 of the Clean Air Act (the "Act"), 42 U.S.C. §7413, as amended. Section 113 of the Act requires the Administrator of the U.S. Environmental Protection Agency ("EPA") to notify both the person and the State in which the violation occurred of the finding whenever EPA finds that a person violated a requirement of a State Implementation Plan ("SIP"). The authority to issue this NOV has been duly delegated to the Division Director of the Caribbean Environmental Protection Division, from the Administrator through the Regional Administrator of EPA Region 2.

II. EPA FINDINGS: PUERTO RICO SIP:

A. Visible Emissions:

Rule 403 of the Puerto Rico Regulation for the Control of Atmospheric Pollution, (PRRCAP) Visible Emissions, provides in pertinent part that:

No person shall cause or permit the emission of visible air pollutants of an opacity greater than 20 percent (6-minute average). Compliance with the visible emissions limitation shall be determined by using the test methods in Rule 106.

Respondent owns and operates the Aguirre Steam Plant which is a source of air emissions. On or about January 31, 2002, a duly-designated EPA inspector conducted an inspection at

Respondent's Aguirre Steam Plant.

During the inspection, the EPA inspector observed that Respondent was operating the facility with a visual emission greater than 20% opacity. Specifically, the visual emission readings taken by the EPA inspector on January 31, 2002, the following:

UNIT	VISIBLE EMISSIONS READING
Stack 1-1	29.375%, 25.83%, 25.83%, 25.625%, 26.875%, 29.375%, 27.29%

Respondent's operation of the facility, as described above, is in violation of the applicable statutes and regulations of both Commonwealth and federal law until it establishes continued compliance. Furthermore, EPA and Respondent entered into a Consent Decree, Civil Action No. 93-2527 CCC, under which Respondent is obliged to operate each generating facility in compliance with Rule 403 of the PRRCAP and the applicable federal law.

III. ENFORCEMENT

Section 113 of the Act, 42 U.S.C. § 7413, provides that after 30 days from the issuance of this NOV, the EPA may:

- issue an order requiring compliance with the requirements or prohibitions of the SIP;
- issue an administrative penalty order pursuant to Section 113(d) of the Act, for civil administrative penalties of up to \$25,000¹ per day of violation;
- bring a civil action pursuant to Section 113 (b) of the Act, for injunction relief and/or civil penalties of not more than \$25,000² per day for each violation.
- bring a criminal prosecution seeking fines and/or imprisonment pursuant to Section

¹See the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Pub. L. 101-410, enacted October 5, 1990; 104 Stat.890), as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 note; Public Law 104-134, enacted April 26, 1996; 110 Stat. 1321). The Debt Collection Improvement Act or "DCIA" requires each Federal agency to issue regulations adjusting for inflation the maximum civil monetary penalties that can be imposed pursuant to such agency's statutes. With the adoption of this rule implementing these statutes, all violations which take place after January 30, 1997 are subject to the new statutory maximum civil penalty amounts. With limited exceptions not relevant to this referral, all of the statutory penalty provisions applicable to this action have been increased by the maximum allowed: ten percent. All affected penalty provisions and their statutory maximum amounts are set out in Table 1 of 40 C.F.R. § 19.4. In this case, the statutory maximum penalties under the CAA are increased to \$27,500 under the DCIA as well as under the CAA penalty policy amounts.

²*Id* at n.1.

113(c) if Respondent knowingly violates any requirement or prohibition of an applicable implementation plan during any period of federally assumed enforcement.

IV. PENALTY ASSESSMENT CRITERIA

If a penalty is assessed in a civil or administrative action, Section 113 (e)(1) of the Act, 42 U.S.C. § 7413 (e) (1), states that the Administrator or the court, as appropriate, shall, in determining the amount of penalty to be assessed, consider (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), the payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

Section 113 (e)(2) of the Act, 42 U.S.C. § 7413 (e) (2), allows the Administrator, or the court as appropriate, to assess a penalty for each day of violation. The number of days of violation shall include the date of the notice and each and every day thereafter until Respondent achieves continuous compliance. If Respondent proves that there was an intermittent day of compliance or that the violation was not continuous in nature, then the EPA may reduce the penalty accordingly.

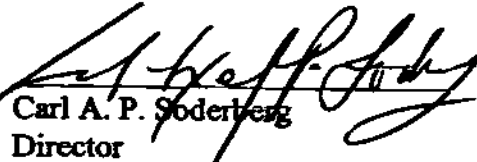
Upon conviction under Section 113(c), Respondent may be fined pursuant to Title 18 of the United States Code, or imprisoned for a term not to exceed five years or both. If the person is a second time offender, the maximum punishment shall be doubled with respect to both the fine and the term of imprisonment. Also, the facility will be declared ineligible for Federal contracts, grants, and loans. The Administrator may extend this ineligibility to other facilities owned by the Respondent (Section 306 of the Act, the regulations promulgated thereunder at 40 CFR Part 15, and Executive Order 11738).

V. OPPORTUNITY TO CONFER

Regarding the violations included in this NOV, EPA may give an opportunity to Respondent to confer provided it requests such a conference within five (5) days of receipt of this NOV. A request for a conference should be directed to:

Hector Vélez Cruz, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
1492 Ponce de Leon Ave.
Centro Europa Building Suite 207
San Juan, Puerto Rico 00910
(787) - 977-5850

Issued: Feb 15, 2002
San Juan, Puerto Rico


Carl A. P. Soderberg
Director
Caribbean Environmental Protection Division
1492 Ponce de Leon Ave.
Centro Europa Building Suite 207
San Juan, Puerto Rico 00910
(787) - 977-5801

To: Mr. Hector Rosario
Executive Director
Puerto Rico Electric Power Authority
P.O. Box 9386
San Juan, Puerto Rico 00907-0386

cc: Mr. Angel O. Berrios, Director
Air Quality Area
Puerto Rico Environmental Quality Board
P.O. Box 11488
San Juan, Puerto Rico 00910

VISIBLE EMISSION OBSERVATION FORM 1

Method Used (Circle One)	Method 9	208A	208B	Other
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Company Name	Guerrero Rice Electric Power Holdings
Facility Name	Aguirre
Street Address	P.R. #3 km 153 Monterrey Community
City	Salina
State	PR
Zip	00704

Process	Steam boiler	Unit #	1-1	Operating Mode
Control Equipment	Combustion			Operating Mode

Describe Emission Point			
Red white stack 1-1			
Height of Emiss. Pt.	Start 254 ft	End 254 ft	Height of Emiss. Pt. Rel. to Observer
Start 215 m	End 215 m	Start 310 NW	End 310 NW
Distance to Emiss. Pt.	Start 215 m	End 215 m	Direction to Emiss. Pt. (Degrees)
Start 310 NW	End 310 NW	Start 310 NW	End 310 NW

Vertical Angle to Obs. Pt.	Start 18°	End 18°	Direction to Obs. Pt. (Degrees)
Start 18°	End 18°	Start 310 NW	End 310 NW
Distance and Direction to Observation Point from Emission Point	Start ±20 straight up	End ±20 straight up	

Describe Emissions	
Start lofting	End lofting
Emission Color	Water Droplet Plume
Start colorless	End whitish
Attached <input type="checkbox"/>	Detached <input type="checkbox"/>
None <input checked="" type="checkbox"/>	

Describe Plume Background	
Start Sky	End Sky
Background Color	Sky Conditions
Start blue	End blue
Start clear	End clear
Wind Speed	Wind Direction
Start 6-8 mph	End 6-8 mph
Start E-NE	End E-NE
Ambient Temp.	Wet Bulb Temp.
Start 83.5	End 83.5
Start 100%	End 100%

Source Layout Sketch		Draw North Arrow
		<input type="checkbox"/> IN <input type="checkbox"/> NW
Observation Point Observer's Position Sun Location Line Wind		254 ft 215 m Side View Stack With Plume Sun Wind
Longitude	Latitude	Declination

Additional Information
VE readings were taken at the point of greatest opac at 200m straight up before plume broke

Form Number		Page	01
Continued on VEO Form Number			

Observation Date	Jan 31, 2002	Time Zone	EST-PR	Start Time	8:46am	End Time	9:15am
Sec	0	15	30	45	Corrected		
1	35	40	30	30	29.315% Plume from Unit 2-1, 2-2 seem darker although more difficult to read due to wind and under measuring		
2	30	30	25	25			
3	30	35	30	35			
4	25	25	30	30			
5	40	30	25	20			
6	25	25	25	30			
7	30	30	30	30			
8	35	30	25	25			
9	20	20	20	20			
10	25	25	25	25			
11	25	30	25	20			
12	25	25	30	25			
13	20	25	25	20			
14	20	25	25	25			
15	25	25	30	25			
16	20	25	30	25			
17	25	30	25	25			
18	30	35	30	30			
19	20	25	30	35	25.625%		
20	25	25	25	30			
21	25	25	25	30			
22	35	30	20	20			
23	25	20	20	25			
24	25	30	20	25			
25	30	30	25	25			
26	30	30	30	25			
27	30	25	25	20			
28	25	20	30	25			
29	20	25	30	30			
30	30	30	25	30			

Observer's Name (Print)	Francisco Claudio Rios
Observer's Signature	Francisco Claudio Rios
Organization	USEPA CEPD ESP
Created By	ETA
Date	Dec 5, 2001

VISIBLE EMISSION OBSERVATION FORM 1

Method Used (Circle One)	208A	208B	Other
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Company Name Puerto Rico Electric Power Authority		
Facility Name Aguirre Steam Plant		
Street Address Montesoria Community RD #3 Km 15.3		
City SALINAS	State P.R.	Zip

Process Steam boiler	Unit # 1-	Operating Mode
Control Equipment Computer	Operating Mode	

Describe Emission Point	
Height of Emiss. Pt. Start 254 ft End 254 ft	Height of Emiss. Pt. Rel. to Observer Start 254 End 254
Distance to Emiss. Pt. Start 202m End 202m	Direction to Emiss. Pt. (Degrees) Start 260ND End 260ND

Vertical Angle to Obs. Pt. Start 180 End 180	Direction to Obs. Pt. (Degrees) Start 260ND End 260ND
Distance and Direction to Observation Point from Emission Point Start 2D straight up End 2D straight up	

Describe Emissions	
Start 10fting	End 10fting
Emission Color Start whitish End whitish	Water Droplet Plume Attached <input type="checkbox"/> Detached <input type="checkbox"/> None <input checked="" type="checkbox"/>

Describe Plume Background	
Start sky	End sky
Background Color Start blackish blue End blackish blue	Sky Conditions Start scattered End scattered
Wind Speed Start 3-5 mph End	Wind Direction Start S-SE End S-SE
Ambient Temp. Start 92.7 End 92.7	Wet Bulb Temp. Start 56% RH Percent

Source Layout Sketch		Draw North Arrow <input type="checkbox"/> IN <input type="checkbox"/> OUT
Longitude	Latitude	Declination

Additional Information VB readings were taken at the point of highest opacity at 2D straight up before the plume bends or mixes with other plumes.

Form Number	Page	Of
Continued on VEO Form Number		

Observation Date Jan 31, 2002		Time Zone EST		Start Time 10:06am		End Time 10:30am	
Sec Min	0	15	30	45	Comments		
1	25	30	35	30	29.315		
2	35	35	35	30			
3	25	30	30	25			
4	30	30	30	35			
5	35	35	25	20	Sun is partially		
6	20	35	20	25	black with sun		
7	20	20	-	-	plane color change		
8	25	20	35	30	- plane black with		
9	35	25	20	20	cloud		
10	20	20	20	20			
11	-	-	-	-	- black background		
12	-	-	-	-	with white cloud		
13	-	-	-	-			
14	25	30	25	30			
15	25	25	20	-			
16	-	-	-	-			
17	30	35	35	25			
18	20	30	30	30			
19	30	20	15	-			
20	-	-	-	-			
21	-	-	25	35			
22	45	40	35	35			
23	40	30	30	30			
24	25	20	-	-			
25	-	-	-	-	Interrupted VB		
26					forecast shows		
27					intermittent dark		
28					will black background		
29							
30							

Observer's Name (Print) Francisco Claudio Ros	Date Jan 31, 2002
Observer's Signature Francisco Claudio Ros	
Organization USEPA CEDD CSB	
Conducted By ETA	Date Dec 5, 2001

VISIBLE EMISSION OBSERVATION FORM 1

Method Used (Circle One)
 Method 9 225A 2000 Other _____

Company Name Puerto Rico Electric Power Authority
 Facility Name Aguirre Steam Plant
 Street Address PR #3 KM 153 Minkerni Community
 City SRINAS State PR Zip _____

Process Steam boiler Unit # _____ Operating Mode _____
 Control Equipment Combustion Operating Mode _____

Describe Emission Point
Red & white stack 1-1
 Height of Emission Pt. Rel. to Observer
 Start 254 ft End 254 ft Start 254 ft End 254 ft
 Distance to Emission Pt. (Degrees)
 Start 202 mt End 202 mt Start 260N End 260W

Vertical Angle to Obs. Pt.
 Start 18° End 18° Direction to Obs. Pt. (Degrees)
 Start 260W End 260W
 Distance and Direction to Observation Point from Emission Point
 Start 20 Straight up End 20 Straight up

Describe Emissions
 Start lofting End lofting
 Emission Color Start White End White Water Droplet Plume Attached ☐ Detached ☐ None ☒

Describe Plume Background
 Start sky End sky
 Background Color Start blue End blue Sky Conditions Start scattered End scattered
 Wind Speed Start 3-5 mph End 3-5 mph Wind Direction Start SSC End SSC
 Ambient Temp. Start 93 End _____ Wet Bulb Temp. Start _____ End 86%

Source Layout Sketch

Draw North Arrow
☐ TH ☐ NH

Observer's Position

Sun Location Line

Longitude _____ Latitude _____ Declination _____

Form Number _____ Page _____ Of _____
 Continued on VEO Form Number _____

Observation Date		Time Zone				Start Time	End Time
January 31, 2002		EST				10:40am	10:49am
Sec Min.	0	15	30	45	Comments		
1	30	25	30	25	} 27.29%	Sun is black	
2	40	40	30	40			
3	45	40	30	25			
4	20	20	15	25			
5	30	20	20	30	}		
6	15	15	25	20			
7	20	20	20	20			
8	20	25	30	20			
9	15	20	20	15	- Admin started to fall		
10	10	10	10	10	Clouds block sun		
11	-	-	-	-			
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							

Observer's Name (Print) Francisco Claudio Rios
 Observer's Signature Francisco Claudio Rios Date January 31, 2002
 Organization USEPA CEPD ESB
 Certified By ETA Date Dec 5, 2001

Additional Information
VE readings were taken at the point of highest opacity at 20 straight up before the plume bends or mixes.
 VEOFI.1